

FIRST PRINT

**CONSTITUTION (LEGISLATIVE COUNCIL) FURTHER  
AMENDMENT BILL 1991**

NEW SOUTH WALES



**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to provide that the President of the Legislative Council is to be elected after each general election; and
- (b) to provide for a determination by lot in the case of a tied vote in an election of President of the Legislative Council; and
- (c) to give the President of the Legislative Council and the Chairman of Committees a deliberative vote (but not a casting vote) on any question before the Council or the Committee of the Whole House; and
- (d) to change the quorum for meetings of the Legislative Council from 12 Members to 8 Members.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on the return of the Legislative Council writ for the next general election.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Constitution Act 1902.

Clause 4 repeals the existing provisions relating to the election of the President of the Legislative Council in the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978. The opportunity has been taken to repeal a related transitional provision concerning the procedure of the Legislative Council that is now dealt with in the Standing Rules and Orders of the Council.

Clause 5 is a transitional provision which applies the amendments to the current President of the Legislative Council and which revokes any existing Standing Rule or Order that is inconsistent with the amendments.

*Constitution (Legislative Council) Further Amendment 1991*

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**SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902**

Schedule 1 (1) (a) and (b) provide that the office of President of the Legislative Council is vacated immediately before the Legislative Council meets for the first time after a general election. The President is to be chosen at that first meeting. Currently, the President continues in office until removed by the Legislative Council or he or she ceases to be a Member. The amendment brings the election of the President of the Legislative Council into line with the election of the Speaker of the Legislative Assembly and the President of the Senate. The relevant section of the Constitution Act 1902, as amended, will read as follows:

**President**

22G. (1) A person shall be chosen to be the President of the Legislative Council:

- (a) before the Legislative Council proceeds to the dispatch of any other business after the first appointed day; and
- (b) before the Legislative Council proceeds to the dispatch of any other business at its first meeting following a periodic Council election; and
- (c) at any other time when the office of President of the Legislative Council becomes vacant.

*[(b) whenever the office of President of the Legislative council becomes vacant.]*

(2) The person so chosen shall cease to hold office as President of the Legislative Council immediately before the Legislative Council assembles for the dispatch of business at its first meeting following a periodic Council election, and shall also cease to hold that office:

- (a) if he ceases to be a Member of the Legislative Council;
  - (b) if he is removed from that office by a vote of the Legislative Council; or
  - (c) if he resigns his office by writing under his hand addressed to the Governor.
- (3) .....

[NOTE: Matter to be inserted is shown in bold type and matter to be deleted is shown in italics.]

Schedule 1 (1) (c) requires the President of the Legislative Council to be elected in accordance with the procedure for electing the President of the Senate until Standing Rules and Orders are made by the Legislative Council. At present, the procedure contained in Schedule 4 to the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978 requires a majority of Members to vote in favour of a candidate for election. The Senate procedure that is to be adopted provides for a determination by lot in the case of a tied vote.

Schedule 1 (2) provides that the quorum for meetings of the Legislative Council is 8 Members. Currently, 12 Members constitute a quorum.



*Constitution (Legislative Council) Further Amendment 1991*

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Schedule 1 (3) alters the voting rights of the President and the Chairman of Committees of the Legislative Council. Currently, the President and Chairman of Committees do not have a deliberative vote but, in the event of the votes being equal, they have a casting vote. The amendment gives the President and the Chairman of Committees a deliberative vote (but not a casting vote) on any question before the Council or the Committee of the Whole House. The President and the Chairman of Committees will thus have the same voting rights as the President and Chairman of Committees of the Senate.

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**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Constitution Act 1902 No. 32
4. Amendment of Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978 No. 75
5. Transitional provisions relating to President of the Legislative Council etc.

**SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902**

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**CONSTITUTION (LEGISLATIVE COUNCIL) FURTHER  
AMENDMENT BILL 1991**

NEW SOUTH WALES



No. , 1991

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**A BILL FOR**

An Act to amend the Constitution Act 1902 in relation to the office of President of the Legislative Council and the quorum for meetings of the Legislative Council.

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*Constitution (Legislative Council) Further Amendment 1991*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Constitution (Legislative Council) Further Amendment Act 1991.

**Commencement**

2. This Act commences immediately before the day fixed for the return of the writ for the first periodic Council election held after the date of assent to this Act. For the purposes of this section, a periodic Council election is taken to be held on the day named in the writ for the taking of the poll in the election.

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended as set out in Schedule 1.

**Amendment of Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978 No. 75**

4. The Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978 is amended by omitting clauses 10 and 11 of Schedule 4 (Procedure for electing President etc.).

**Transitional provisions relating to the President of the Legislative Council etc.**

5. (1) The amendments made by this Act extend to any person holding office as President of the Legislative Council on the commencement of this Act.

(2) Any provision of the Standing Rules and Orders of the Legislative Council in force at the commencement of this Act ceases to have effect to the extent to which it is inconsistent with any amendment made by this Act.

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**SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902**

(Sec. 3)

(1) Section 22G (**President**):

(a) Omit section 22G (1) (b), insert instead:



*Constitution (Legislative Council) Further Amendment 1991*

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SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902—  
*continued*

- (b) before the Legislative Council proceeds to the dispatch of any other business at its first meeting following a periodic Council election; and
  - (c) at any other time when the office of President of the Legislative Council becomes vacant.
- (b) In section 22G (2), after “cease to hold office as President of the Legislative Council”, insert “immediately before the Legislative Council assembles for the dispatch of business at its first meeting following a periodic Council election, and shall also cease to hold that office”.
- (c) After section 22G (2), insert:
- (2A) Until Standing Rules and Orders of the Legislative Council otherwise provide, the President of the Legislative Council shall be chosen in accordance with the procedure for the time being for choosing the President of the Senate of the Parliament of the Commonwealth.
- (2) Section 22H:
- Omit the section, insert instead:
- Quorum**
- 22H. The presence of at least 8 Members of the Legislative Council (in addition to the President or other Member presiding) shall be necessary to constitute a meeting of the Legislative Council for the dispatch of business.
- (3) Section 22I:
- Omit the section, insert instead:
- Determination of questions**
- 22I. (1) All questions arising in the Legislative Council (including questions arising in Committee of the Whole House) shall be decided by a majority of the votes of Members present.
- (2) The President and the Chairman of Committees of the Legislative Council shall in all cases be entitled to vote.
- (3) When the votes are equal, the question shall pass in the negative.
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